

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA, GEORGIA**

IN RE EQUIFAX, INC., CUSTOMER)	MDL DOCKET NO.: 2800
DATA SECURITY BREACH LITIGATION)	1:17-MD-2800-TWT
)	
)	CONSUMER ACTIONS
_____)	

**MOTION TO APPOINT COUNSEL OF BRANSTETTER, STRANCH, AND JENNINGS
PLLC TO PLAINTIFFS' STEERING COMMITTEE FOR CONSUMER ACTIONS**

Through this application, Branstetter, Stranch, and Jennings PLLC ("Branstetter") seeks appointment to the Plaintiff's Steering Commission ("PSC") on behalf of the plaintiffs' consumer class (the "Consumer Class") in this MDL.

Branstetter has a long history of representing consumers in a variety of class actions and is committed to bringing this case to a successful and timely resolution on behalf of the Consumer Class.

Branstetter has 18 lawyers (10 members, five associates, two staff attorneys, and one of counsel) and regularly partners with additional staff attorneys to staff complex litigation of this nature. Branstetter is located in Nashville, Tennessee and is one of the largest law firms based solely in the South doing complex, multiparty litigation on a national level. Branstetter has been serving its clients for over fifty (50) years. Numerous members of the firm are listed in the Best Lawyers in America and have the coveted Martindale Hubble AV rating. The firm's former managing partner, Jane Branstetter Stranch, was appointed by President Obama to the United States Court of Appeals for the 6th Circuit directly out of private practice with Branstetter and confirmed by the Senate approximately one year later.

As demonstrated below, Branstetter possesses the (1) willingness and ability to commit to a time-consuming process; (2) ability to work cooperatively with others; (3) professional experience in this type of litigation; and (4) access to sufficient resources to advance the litigation in a timely manner. [Dkt. 23].

ROLE IN EQUIFAX LITIGATION

As the Court is well aware, this litigation stems from the 2017 hacking of Equifax's data systems that has effected over 143 millions Americans. The data breach is allegedly linked to Equifax's failure to timely patch a known security flaw in the Apache Struts open source software application. Apache Struts is a widely used software application used in many websites and online applications.

Shortly following the disclosure of the data breach, potential clients effected by the data breach began contacting Branstetter to determine what legal recourse were available and Branstetter filed three of the earliest cases involving the data breach in three separate district courts in three states: *Daughtery et al, v. Equifax Inc.*, Case No 4: 17-cv-00597 (E.D. Ark.); *Cox v. Equifax Inc.*, Case No. 1:17-cv-03586 (N.D.G.A.); and *Weaver v. Equifax, Inc.*, Case No. 1:17-cv-00268 (E.D. N.C.)

Branstetter continues to field new inquiries regarding the data breach and continues to sign up new clients that have been personally damaged as a result of the data breach.

ROLE IN NATIONWIDE CONSUMER CLASS ACTIONS

Branstetter's Managing Partner, J. Gerard Stranch, IV, serves on the Plaintiffs' Steering Committee in *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal. 2016). Volkswagen's attempts to circumvent federal and state laws concerning the emissions of its so called "clean diesel" engines have received worldwide media

scrutiny. In December of 2015, the Joint Panel on Multidistrict litigation consolidated all related litigation in the Northern District of California. On January 21, 2016, Judge Breyer appointed Mr. Stranch to the 22-member Plaintiffs' Steering Committee to coordinate all pre-trial matters relating to all cases pending against Volkswagen and its related defendants.

Claims in this lawsuit include consumer fraud claims, securities claims, derivative claims, and claims brought on behalf of Volkswagen dealers. In October, 2016, the court granted final approval to a settlement fund worth over \$10 billion to consumers with 2.0 liter diesel engines, and in May, 2017, the court granted final approval to a \$1.2 billion settlement for consumers with 3.0 liter diesel engines, and a \$357 million settlement with co-defendant Bosch.

Branstetter performed over 15,000 hours of significant work in advancing this litigation to a successful conclusion on behalf of individual consumers. Branstetter was intricately involved in all aspects of this litigation from drafting the complaint, contributing in discovery, participating in the settlement and mediation efforts, and aiding class members with processing claims.

Branstetter's efforts in this litigation include the following:

- Mr. Stranch personally traveled to Germany on two occasions to cultivate relationships with fact and expert witnesses. This investigation played a significant role in advancing the litigation against Bosch, a vendor that supplied computer code and other support in aiding Volkswagen's deployment of the defeat device that helped it evade pollution controls in its "clean diesel" vehicles.
- Branstetter's attorneys and associates also spent thousands of hours reviewing documents and participating on conference calls regarding the investigation of Volkswagen's and Bosch's role in the scandal.

- Once the litigation settled several of Branstetter's associates took a leading role in communicating with class members regarding the nationwide settlement and aided thousands of class members in submitting and completing claims to ensure that class members received full benefits under the combined settlement agreements.

The foregoing is not a comprehensive list of the significant work Branstetter provided in furthering the Volkswagen clean diesel litigation but does provide examples of the firm's commitment to doing a variety of work in varying degrees of sophistication in large, nationwide consumer-based class actions. Branstetter is committed to bringing this expertise to bear in ensuring the present litigation is as successful as the results achieved in *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*

ROLE IN DATA BREACH CASES

Branstetter played an instrumental role in the Anthem Data Breach litigation that resulted in one of the largest data breach related settlements to date. As the Court is likely aware, *In re Anthem, Inc. Data Breach Litig.*, Case No. 15-MD-02617-LHK, (N.D. Cal. 2016), involved members of health care plans whose personal information was exposed to hackers following cyber-attack on Anthem's health insurance database.

Branstetter provided over 2,100 hours of substantive work in pursuit of the successful resolution of *Anthem* and timekeepers from all levels performed work on all aspects of the Anthem case.

Branstetter's attorneys and associates reviewed thousands of documents and completed document review tasks timely and efficiently. Branstetter's attorneys and associates participated

in weekly conference calls to discuss evolving protocols and provided strategic guidance on results of documents found and where the document investigation should lead.

Branstetter's partners reviewed plan documents and provided strategic guidance regarding the implications of ERISA on the consumer claims pending in the litigation.

As the litigation progressed, Branstetter's partners and associates took a leading role in deposing *Anthem's* witnesses throughout the South. These witnesses including corporate representatives for Anthem's Alabama and North Carolina operations. As part of these depositions, Branstetter took depositions of privacy officers and chief security officers for these *Anthem* entities and elicited key testimony that significantly aided in advancing the litigation especially as it related to class certification and summary judgment briefing.

**ROLE IN ADVISING HEALTH AND WELFARE FUNDS ON THE PROTECTION OF
PERSONAL IDENTIFYING INFORMATION**

For decades, Branstetter has advised numerous health and welfare funds on protecting and safeguarding personal identifying information and personal health information held by such funds on behalf of members. Health and welfare funds are benefit funds maintained by labor unions and affiliated organizations that provide health, pension, and other benefits to members. As part of this work these organizations collect a breadth of personal information on individuals that require systems to ensure this information is not illegally accessed.

Because of this work, attorneys at Branstetter are uniquely qualified to provide strategic guidance and understanding relating to the often complex world of data protection and the ever-shifting technological landscape that affects companies and entities that maintain sensitive information of the kind at issue in this litigation.

ROLE IN NATIONWIDE CLASS ACTIONS AND MASS TORTS

Mr. Stranch also serves on the Plaintiffs' Steering Committee and is lead Tennessee counsel in *In Re: New England Compounding Pharmacy, Inc.*, No. 1:13-md-2419, in the United States District Court for the District of Massachusetts. This MDL stems from the 2012 nationwide outbreak of fungal meningitis caused by tainted pharmaceuticals produced at NECC's compounding facility in Massachusetts. The outbreak resulted in hundreds of confirmed cases of fungal meningitis's or other paraspinal infection and resulted in the death of 64 Americans. The PSC secured over \$230 million in settlements from NECC and related defendants following NECC's filing of a Chapter 11 bankruptcy petition.

Mr. Stranch also served on the Executive Committee in *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-1238 (D. Mass) (J. Young). This federal antitrust case challenged bid rigging and market allocation in the private equity/leveraged buyout industry and included defendants across the financial services industry including Goldman Sachs and JP Morgan, amongst others. The parties reached a \$590.5 million settlement approximately two months before trial, and the Court finally approved this settlement in 2015.

Branstetter is or has been lead counsel in numerous other class actions ranging from consumer fraud cases to ERISA class-actions and has been one of the leaders in generic suppression pharmaceutical class actions throughout the country.

A full listing of the firm's extensive work in class actions and mass torts can be found on the attached firm resume.

BRANSTETTER'S ATTORNEYS

A full profile of all Branstetter's Partners, Associates and of Counsel can be found on the attached resume. If appointed to the PSC, the following three partners will be the central facing partners fully engaged in PSC duties.

J. Gerard Stranch, IV. J. Gerard Stranch, IV is the firm's Managing Partner and has won numerous honors for his work throughout the United States, including being listed as a MidSouth Rising Star every year since 2009 by Super Lawyers and being named to the Top 40 Under 40 by the National Trial Lawyers Association since 2011.

In 2017, the American Antitrust Instituted awarded Mr. Stranch its Outstanding Antitrust Litigation Achievement By A Young Lawyer awarded annually to a lawyer under 40 that individually contributed to a case that led to the positive development of antitrust policy on behalf of individuals harmed by anticompetitive activity. Mr. Stranch won the award for his work as co-lead counsel in *In re: Prograf Antitrust Litigation*, No. 11621 (D. Mass) (J. Zobel) that resulted in a \$13.25 million settlement on behalf of a class of indirect purchasers. Mr. Stranch has been an adjunct professor at Vanderbilt University Law School where he has taught a class on the practice of civil litigation. Mr. Stranch graduated from Vanderbilt University School of Law in 2003.

Michael Stewart. Mr. Stewart focuses his practice on Branstetter's complex litigation cases in antitrust, consumer protection, and mass tort. Mr. Stewart was honored with a listing in Best Lawyers in America in 2008, and that same year was elected to serve in the Tennessee House of Representatives for House District 52. He is currently the Democratic Caucus Chair for the Tennessee House Democrats and is one of the highest-ranking Democrats currently serving

in Tennessee state politics. He is a former army intelligence officer and graduated law school from the University of Tennessee in 1994.

Benjamin Gastel. Mr. Gastel focuses his practice on Branstetter' s complex litigation cases in consumer protection, mass tort, and civil rights. Mr. Gastel started his legal career in Atlanta, Georgia with the law firm of Troutman Sanders and is an active member of the Georgia Bar and a member of the Northern District of Georgia. He is currently lead counsel in a consumer class action in *Cates v. Crystal Clear Techs., LLC*, 874 F.3d 530 (6th Cir. 2017) where he obtained a reversal of a District Court opinion dismissing class claims on behalf of a group of consumers aggrieved by anticompetitive conduct of their telecommunications service provider. In addition to this work, Mr. Gastel performed over 2500 hours of work in advancing the cases against NECC and its purchasers that led to over \$230 million in settlement funds on behalf of victims of this tragedy. Mr. Gastel is a 2007 graduate of Vanderbilt University School of Law.

SUPPORT OF OTHER APPLICANTS

In addition to seeking a position for itself on the PSC for consumer actions, Branstetter also supports the application of Robbins Geller Rudman and Dowd and Hagens, Berman, Sobol & Shapiro, and the slate of candidates proposed in their application.

Dated: February 2, 2018

/s/J. Gerard Stranch, IV
J. Gerard Stranch, IV (TN BPR #23045)
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CERTIFICATE OF SERVICE

I, J. Gerard Stranch, IV, hereby certify that a on February 2, 2018, I electronically filed the forgoing document through CM/ECF System, which will provide electronic service notification to all counsel of record registered as CM/ECF users, and that a courtesy copy will be served on Court chambers.

Respectfully submitted this 2nd day of February, 2018.

/s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV